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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,469	09/08/2003	Fred S. Cook	1387A	9818
28004	7590	09/23/2005	EXAMINER	
SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100			NGUYEN, SIMON	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/657,469	COOK, FRED S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SIMON D. NGUYEN	2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 September 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 6,650,888, except a product identification and a purchase price. Although the conflicting claims are not identical, they are not patentably distinct from each other because for conducting a purchase transaction, a product id, and a purchase price are obviously included in a transaction which is well known to those skilled in the art in order to keep track of purchased type.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maes et al. (6,016,476).

Regarding claim 1, Maes discloses a mobile PDA or a wireless phone performing consumer transactions (fig. 1, abstract, column 13 lines 39-50, column 14 line 5), comprising: a memory (14, 32) for storing a plurality of account codes (column 2 lines 26, 64); a display (34) for displaying prompts inputting data associated with the operations or functions of the PDA device including a user speech sample (column 5 line 36-67, column 8 line 13-26, column 9 lines 27-35, column 9 lines 65-7, column 10 lines 43-48); a microphone (18); a wireless interface (34) for transferring the user speech sample and the account (column 5 lines 54-67, column 7 lines 36-55, column 8 line 1) and receiving a transaction code (column 13 line 57, column 14 line 62), purchase price (column 14 lines 30 and 52, column 15 line 11-20); a control circuitry (12) for controlling the user interface, display, speech sample module, memory in order to execute the transaction with a server (column 12 lines 40-67); and wherein the PDA wirelessly communicates with local area network which is a public wireless network (column 7 line 57 to column 8 line 2). It should be noted that a keypad used for selecting or operating is inherently in a PDA, wherein the keypad having a plurality of keys obviously used for selecting account codes and voice transaction. However, Maes does not specifically disclose a product ID and a data for the transaction.

The examiner takes an official notice that for any purchase-product transaction, a product identification and a date of purchase are obviously included in the transaction, which is known to those skilled in the art in order to keep track of the purchase.

Regarding claims 2-3, these claims are rejected for the same reason as set forth in claim 1,

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hultgren (6,868,391) discloses a wireless phone for handling a transaction to purchase a product (abstract, fig.1), wherein the phone pays for purchase via an account, wherein the transaction includes a transaction amount, a transaction code, displaying the product, and verifying account, using prompts for transaction (column 4 lines 13-67, column 6 lines 27-65), Hultgren further discloses merchant identification and a voice prompt (column 5 lines 12-16); Pare, Jr. et al. (5,870,723) discloses a computer for handling a transaction to purchase a produce, comprising: selecting an account used for purchase, and transmitting voice sample for verification (abstract, figs.1-3); Kawan (6,442,532) discloses a wireless transaction having a wireless terminal (figs.2C, 4, 6) wherein the wireless terminal comprises an account code, a biometric identification, a display, a keypad, memory, a transceiver, controller, which are used for interacting with the financial institution to validate a transaction (columns 4-5).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
600 Dulany, Alexandria, VA 22314

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Hand-delivered response should be brought to Customer Service Window located at the Randolph Building, 401 Dulany, Alexandria, VA, 22314.

Simon Nguyen

September 15, 2005

  
SIMON NGUYEN  
PRIMARY EXAMINER